

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

FILED

OCT 24 2017

Clerk, U.S. District Court
District Of Montana
Great Falls

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES MCCONNELL,

Defendant.

CR-15-38-GF-BMM

ORDER

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on September 26, 2017. (Doc. 35.) McConnell timely filed objections on October 10, 2017. (Doc. 36.) The Court reviews de novo findings and recommendations to which a party objects. 28 U.S.C. § 636(b)(1).

Judge Johnston conducted a revocation hearing on July 12, 2017. (Doc. 34.) The United States accused Mr. McConnell of violating his conditions of supervised release by (1) committing a new crime, (2) committing another new crime, (3) possessing methamphetamine on May 13, 2017, (4) providing a urine sample that tested positive for methamphetamine on May 16, 2017, (5) providing a diluted urine sample, (6) providing a sweat patch that tested positive for methamphetamine, (7) possessing methamphetamine on June 7, 2017, (8)

providing a urine sample that was not his, and (9) providing a urine sample that tested positive for methamphetamine on June 30, 2017. (Doc. 29 at 2-4.)

At the revocation hearing, the United States moved to dismiss counts 1 and 3. (Doc. 34.) McConnell admitted to allegations 4, 5, 6, 8 and 9. (Doc. 34.) The United States put on evidence regarding allegations 2 and 7, and Judge Johnston found that McConnell had committed allegation 7. (Doc. 35 at 1.) Judge Johnston found that McConnell's violations warrant revocation, and recommended a sentence of seven months in custody with fiftythree months of supervised release to follow, less custody time. (Doc. 35 at 5.)

McConnell objects to Judge Johnston's Findings and Recommendations. (Doc. 36.) He argues that the recommended sentence is not "necessary to provide adequate deterrence, protection of the public, or adequate psychological and correctional treatment," three of seven factors the Court is required to consider pursuant to 18 U.S.C. § 3553(a). (Doc. 36 at 4.) McConnell further argues that his "primary problem is chemical dependency" and argues that a sentence of time served followed by a term of supervised release with required inpatient substance abuse treatment is appropriate. (Doc. 36 at 4.)

The Court has considered the 18 U.S.C. § 3553(a) factors and agrees with Judge Johnston's Findings and Recommendations. McConnell's violations of his conditions represent a serious breach of the Court's trust.

These violations warrant revocation of McConnell's supervised release. Judge Johnston has recommended that the Court revoke McConnell's supervised release and commit McConnell to the custody of the Bureau of Prisons for seven months. (Doc. 35 at 5.) Judge Johnston further has recommended that 53 months of supervised release, less custody time, follow his custody period. (Doc. 35 at 5.) The sentence recommended by Judge Johnston is sufficient, but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 35) is ADOPTED IN FULL.

IT IS FURTHER ORDERED that Defendant James McConnell be sentenced to custody for seven months, followed by 53 months supervised release, less custody time.

DATED this 23rd day of October, 2017.

A handwritten signature in black ink, reading "Brian Morris". The signature is written in a cursive, flowing style. Below the signature is a solid horizontal line.

Brian Morris
United States District Court Judge